

REMARKS

Claims 1-12 are pending in the application. In the final Office Action dated November 14, 2006, the Examiner rejected claims 1-12 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Lehner, et al.* ("*Lehner*") in view of *Foster, et al.* ("*Foster*"). Applicant respectfully traverses the rejection and addresses the Examiner's disposition below. Claims 3 and 8 have been amended to clarify the claim language.

Independent claims 1, 6, 11, and 12 each claim subject matter relating to asynchronously receiving a first datatype at a subscriber. It is determined whether the subscriber subscribes to at least one additional datatype after receiving the first datatype. There is a query for the at least one additional datatype responsive to a determination that the subscriber subscribes to the at least one additional datatype.

This is clearly unlike *Lehner* in view of *Foster*. As acknowledged by the Examiner, *Lehner* fails to disclose asynchronously receiving a datatype at a subscriber. The Examiner combines *Lehner* with *Foster* in an attempt to disclose or suggest Applicant's claimed invention, however, *Foster* is not a valid 35 U.S.C. §102 reference.

The present application was filed on October 22, 2003 and claims priority to provisional patent application no. 60/469,767, which was filed on May 12, 2003. Therefore, the present application has an effective filing date of May 12, 2003.

Foster has a publication date of August 14, 2003, which is later than the present application's effective filing date of May 12, 2003. Therefore, *Foster* cannot be used as a prior art reference under 35 U.S.C. §102. Accordingly, *Lehner* in view of *Foster* still fails to disclose or suggest claims 1, 6, 11, and 12.

The Examiner argues that some of Applicant's claimed subject matter is not enabled by priority application no. 60/469,767 ("the '767 application"). Applicant disagrees. Specifically, the Examiner argues that the following claimed subject matter is not enabled: 1) "each data type having a metadata in the first format that describes the respective data instance and a reference in the first format to the respective data instance", 2) "the data instances being maintained separately from the data types", and 3) "a subscriber receiving the published data type responsive to subscribing to the data type of the first format is not required to recognize the format of the data instance." *Office Action of 11/14/2007*, pages 2-3 Applicant notes that the Examiner has read additional limitations into the claims, as evident from the *Office Action* text quoted above. Below, Applicant addresses

each of the Examiner's contentions relative to the recited claim language.

Regarding item 1, the '767 application clearly enables the claimed subject matter relating to a datatype including a reference to a data. *See, e.g.*, pages 44 (last paragraph) and 62-68.

Regarding item 2, the '767 application clearly enables the claimed subject matter relating to data being stored separately from a data type. *See, e.g.*, pages 71 and 92.

Regarding item 3, it is unclear what the Examiner means as the Examiner does not describe what is claimed. However, Applicant notes that the '767 application clearly enables the claimed subject matter relating to a subscriber determining whether the subscriber subscribes to additional datatypes by identifying a key in the first datatype. *See, e.g.*, pages 62-68 and 107.

Therefore, Applicant submits that all of the claimed subject matter is described and enabled in the '767 application.

Claims 2-5 and 7-10 depend directly or indirectly from claim 1 or 6 and are therefore allowable for at least that same reasons that claims 1 and 6 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

CONCLUSION

In view of the foregoing, it is submitted that claims 1-12 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

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